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6 || Attorneys for Defendant  
**BISSELL INC.**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

11 REBEKA RODRIGUEZ, individually  
12 and on behalf of all others similar  
13 situated, Plaintiffs,  
14 v.  
15 BISSELL INC., a Michigan corporation  
d/b/a WWW.BISSELL.COM, Defendant.

Case No.

**NOTICE OF REMOVAL UNDER  
CAFA, 28 U.S.C. § 1332(d), 28 U.S.C.  
§ 1441, 28 U.S.C. § 1446 AND 28  
U.S.C. § 1453**

Los Angeles County Superior Court  
Case No. 23STCV12416  
Filed: June 2, 2023

18 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE  
19 CENTRAL DISTRICT OF CALIFORNIA AND TO PLAINTIFF AND HER  
20 ATTORNEYS OF RECORD:

21 PLEASE TAKE NOTICE that pursuant to the Class Action Fairness Act  
22 (“CAFA”), 28 U.S.C. § 1332(d), 28 U.S.C. § 1441, 28 U.S.C. § 1446 and 28 U.S.C.  
23 § 1453, Defendant BISSELL INC., (“Bissell” or “Defendant”) hereby files its Notice  
24 of Removal of the above-entitled action from the Superior Court of the State of  
25 California, County of Los Angeles, to the United States District Court for the Central  
26 District of California. In support of its removal, Defendant respectfully offers the  
27 following:

1       **I. BACKGROUND**

2       1. On June 2, 2023, Plaintiff Rebeka Rodriguez (“Plaintiff”) filed civil  
3 action, on behalf of a putative California Class, captioned *Rebekah Rodriguez,*  
4 *individually and on behalf of all other similarly situated v. Bissell Inc., a Michigan*  
5 *corporation, d/b/a www.Bissell.com*, Case No. 23STCV12416 (the “State Court  
6 Action”).

7       2. The sole named defendant in the State Court Action is Bissell Inc.

8       3. Plaintiff’s Complaint alleges a single cause of action against Bissell  
9 for violation of the Video Protection Privacy Act (“VPPA”), 18 U.S.C. § 2710,  
10 *et seq.* (Complaint, ¶¶28-33.) The Complaint alleges that Bissell “tracks the videos  
11 that visitors watch on its website and reports each visitor’s video-watching behavior  
12 to Google” in violation of the VPPA. (*Id.*, ¶¶ 18, 21.)

13       4. On June 8, 2023, a copy of the Summons, Complaint and associated  
14 papers were personally served on Bissell’s registered agent for service of process.  
15 Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of Plaintiff’s Complaint  
16 and all process and pleadings in the state court action are submitted concurrently  
17 herewith.

18       5. Bissell is filing this Notice of Removal within thirty (30) days of the  
19 service of Plaintiff’s Complaint on it in this action, and thus removal is timely  
20 under 28 U.S.C. section 1446.

21       6. The State Court Action is removable to this Court, and this Court has  
22 jurisdiction over this action, under CAFA, 28 U.S.C. § 1332(d), 28 U.S.C. § 1446,  
23 and 28 U.S.C. § 1453, because the State Court Action satisfies all the requirements  
24 under CAFA for federal jurisdiction based upon Plaintiff’s allegations and theories  
25 (which Bissell disputes, yet which control for removal purposes): (1) the parties are  
26 minimally diverse; (2) the amount in controversy exceeds the \$5,000,000  
27 jurisdictional threshold; (3) the proposed class consists of more than 100 putative  
28 class members; and (4) the exceptions to CAFA preventing removal do not apply.

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1           **II. THE STATE COURT ACTION IS REMOVABLE UNDER CAFA,**  
 2           **28 U.S.C. § 1332(d)**

3           7. Plaintiff brings this case as a putative class action under the Video  
 4 Protection Privacy Act (“VPPA”), 18 U.S.C. § 2710, *et seq.* (Complaint, ¶ 22.) In  
 5 particular, Plaintiff filed this putative class action Complaint on behalf of:

6           “All persons in the United States who played video content on the  
 7 Website and whose PII was disclosed by Defendant to any third party  
 during the two years preceding the filing of this action.

8           (*Id.*)

9           Therefore, this action is a proposed “class action” under 28 U.S.C.  
 10 § 1332(d)(1)(B), defined as “any civil action filed under Rule 23 of the Federal  
 11 Rules of Civil Procedure or similar State statute or rule of judicial procedure  
 12 authorizing an action be brought by 1 or more representative persons as a class  
 13 action.”

14           8. CAFA expands federal jurisdiction over class actions and expressly  
 15 provides that class actions filed in state court are removable to federal court where  
 16 (a) any member of the putative class is a citizen of a State different from that of any  
 17 defendant; (b) the aggregate amount in controversy for the putative class exceeds  
 18 \$5,000,000 exclusive of interest and costs; and (c) the putative class contains at  
 19 least 100 members. 28 U.S.C. § 1332(d); *see Serrano v. 180 Connect, Inc.*, 478  
 20 F.3d 1018, 1020-21 (9th Cir. 2007). This suit satisfies all the requirements under  
 21 CAFA for federal jurisdiction.

22           **A. Burden on Removal**

23           9. In removing an action to federal court under CAFA, a defendant is not  
 24 required to submit evidence that the jurisdictional elements are satisfied. To the  
 25 contrary, a “defendant’s notice of removal need include only a plausible allegation”  
 26 that the CAFA requirements are satisfied. *Dart Cherokee Basin Operating Co. v.*  
 27 *Owens*, 547 U.S. 81 (2014).

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## B. Minimal Diversity Exists

2 10. CAFA requires minimal diversity – at least one putative class member  
3 must be a citizen of a state different than one defendant. 28 U.S.C. § 1332(d)(2)(A).  
4 Here, named Plaintiff is a resident of California and Plaintiff “brings this class action  
5 individually and on behalf of all others similarly situated” played video content on  
6 Defendant’s website, <http://www.bissell.com>, and whose PII was disclosed to a  
7 third-party. (Complaint, ¶¶ 4, 22.) “[A] person’s place of residence... is prima facie  
8 proof of his domicile” for purposes of jurisdiction. *Hollinger v. Home State Mut. Ins.*  
9 *Co.*, 654 F.3d 564, 571 (5th Cir. 2011); *see State Farm Mut. Auto. Ins. Co. v. Dyer*,  
10 19 F.3d 514, 520 (10th Cir. 1994) (same); *Gonzalez v. First NLC Fin. Serv.*, 2009  
11 WL 2513670, at \*2 (C.D. Cal. Aug. 12, 2009) (same).

11. In fact, the putative class contains at least one putative class member  
12 who is expressly identified as a citizen of the State of California, namely, Plaintiff  
13 Rebekah Rodriguez. (Complaint, ¶ 4); *see Mondragon v. Capital One Auto Finance*,  
14 736 F.3d 880, 886 (9th Cir. 2013) (“under CAFA, the jurisdictional allegations in the  
15 complaint can be taken as a sufficient basis, on their own, to resolve questions of  
16 jurisdiction where no party challenges the allegations...”); *see also Hollinger*, 654  
17 F.3d at 571 (residence is “*prima facie* proof” of domicile).  
18

19       12. For the purposes of CAFA, “a corporation shall be deemed to be a  
20 citizen of every State and foreign state by which it has been incorporated and of the  
21 State or foreign state where it has its principal place of business.” 28 U.S.C.  
22 § 1332(c)(1). Here, Bissell alleges that it is a corporation organized under the laws of  
23 the State of Michigan. (*See also* Complaint, ¶ 5 (alleging that Bissell is a “flooring  
24 products company based in Michigan”)).

25        13. The phrase “principal place of business” refers to the place where a  
26 company’s “high level officers direct, control, and coordinate” operations, and will  
27 “typically be found” at a company’s headquarters. *Hertz Corp. v. Friend*, 559 U.S.  
28 77, 80-81, 175 L.Ed.2d 1029, 130 S.Ct. 1181 (2010).

1       14. Here, Bissell's officers direct, control, and coordinate Bissell's  
 2 activities from its headquarters in Grand Rapids, Michigan. Thus, Bissell's principal  
 3 place of business is in the State of Michigan. Because Bissell is a citizen of  
 4 Michigan, and because the named Plaintiff is a citizen of California, minimal  
 5 diversity exists.

6       **C. The Putative Class Exceeds 100 Members**

7       15. CAFA requires that the class consist of at least 100 persons. *See* 28  
 8 U.S.C. § 1332(d)(5). This requirement is met here. Plaintiff alleges she "does not  
 9 know the exact number of members of the aforementioned Class. However, given  
 10 the popularity with Defendant's website, the number of persons within the Class is  
 11 **believed to be so numerous** that joinder of all members is impractical." (*See*  
 12 Complaint, ¶ 23 (emphasis added).)

13       **D. The CAFA Amount-in-Controversy Requirement Is Satisfied**

14       16. CAFA also requires that the aggregate amount in controversy exceed  
 15 \$5,000,000 for the entire putative class, exclusive of interest and costs. 28 U.S.C.  
 16 § 1332(d)(6) ("In any class action, the claims of the individual class members shall  
 17 be aggregated to determine whether the amount in controversy exceeds the sum or  
 18 value of \$5,000,000, exclusive of interest and costs."). In a Notice of Removal, a  
 19 defendant need only allege that it is more likely than not that the amount in  
 20 controversy exceeds \$5,000,000. *See Singer v. State Farm Mut. Auto. Ins. Co.*, 116  
 21 F.3d 373, 376 (9th Cir. 1997). Moreover, the ultimate inquiry depends on what  
 22 amount is "put in controversy" by the plaintiff – not what a defendant will actually  
 23 owe. *Rippee v. Boston Mkt. Corp.*, 408 F. Supp. 2d 982, 986 (S.D. Cal. 2005). In  
 24 considering whether the amount in controversy is met in actions seeking statutory  
 25 penalties, courts may consider the statutory maximum penalty available under the  
 26 claims asserted. *See Chabner v. United of Omaha Life Ins. Co.*, 225 F.3d 1042, 1046  
 27 n.3 (9th Cir. 2000); *Morey v. Louis Vuitton N. Am., Inc.*, 461 Fed. Appx. 642, 643  
 28

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1 (9th Cir. 2011) (CAFA amount-in-controversy satisfied where “complaint sought  
 2 [statutory] penalties of ‘up to... \$1,000 per violation’”).

3 17. Here, based upon Plaintiff’s allegations and theories (which Bissell  
 4 disputes, but which control for removal purposes), the \$5,000,000 amount in  
 5 controversy requirement is satisfied. Plaintiff’s prayer for relief seeks for Plaintiff  
 6 and each member of the putative class, statutory damages for violations of the VPPA  
 7 and punitive damages.

8 18. The Complaint does not quantify the number of alleged violations at  
 9 issue, or otherwise quantify the amount of damages sought. (See Complaint, ¶ 33  
 10 (alleging only that the putative class is entitled to “statutory damages in the amount  
 11 of \$2,500 per violation, punitive damages, and recovery of attorneys’ fees).) The  
 12 Complaint alleges Plaintiff “does not know the exact number” but “believe[s] to be  
 13 so numerous... that joinder is impractical” (See Complaint, ¶ 23.) Plaintiff’s  
 14 complaint seeks to include a nationwide class of all visitors to Bissell’s website for  
 15 the two years prior to the filing of the Complaint. (See Complaint, ¶ 22.) Even 2,000  
 16 visitors during this time frame would exceed the \$5,000,000 minimum to satisfy  
 17 CAFA’s amount-in-controversy requirement (*i.e.*, \$2,500 in statutory damages per  
 18 violation multiplied by 2,000 putative class members alone equals \$5,000,000).

19 19. The exceptions to CAFA preventing removal do not apply here.

20 **IV. REMOVAL TO THE CENTRAL DISTRICT IS PROPER**

21 20. This Notice of Removal is filed within thirty days of June 8, 2023,  
 22 when Bissell was served with the Summons and Complaint in the State Court  
 23 Action. Thus, this Notice of Removal is timely filed in accordance with 18 U.S.C.  
 24 § 1446(b).

25 21. The United District Court for the Central District of California  
 26 embraces the county and court in which the Plaintiff filed this case. 28 U.S.C.  
 27 § 84(c). Therefore, this action is properly removed to this Court pursuant to 28  
 28 U.S.C. § 1446(a).

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1       22. Pursuant to 28 U.S.C. § 1446(a), Bissell has attached as Exhibit A, a  
2 copy of all process, pleadings and orders served upon it in the State Court Action.

3       23. Bissell will promptly serve Plaintiff with this Notice of Removal, and  
4 will promptly file a copy of this Notice of Removal with the clerk of the Superior  
5 Court of the State of California for the County of Los Angeles, as required by 28  
6 U.S.C. § 1446(d).

7  
8 Dated: July 7, 2023

Respectfully submitted,

9 DENTONS US LLP

10 By: /s/ Kimberly G.A. Dennis

11 Nick S. Pujji  
Kimberly G.A. Dennis

12 Attorneys for Defendant  
13 BISSELL INC.

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